

AMENDED IN SENATE MARCH 19, 2012

SENATE BILL

No. 1089

Introduced by Senator Liu

(Principal coauthor: Assembly Member Portantino)

February 15, 2012

An act to amend Section ~~1502~~ 1596.792 of the Health and Safety Code, relating to ~~community~~ care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1089, as amended, Liu. ~~Community care facilities: delinquent and at-risk youth.~~ *Child day care facilities.*

The California Child Day Care Facilities Act provides for the licensing and regulation of child day care facilities, as defined, and makes willful or repeated violations of the act a misdemeanor. The act does not apply to specified entities.

Existing law provides that any person under the age of 18 years who persistently or habitually refuses to obey reasonable and proper orders or directions of his or her parents, guardian, or custodian, or who is beyond the control of that person is within the jurisdiction of the juvenile court.

This bill would provide that the Child Day Care Facilities Act does not apply to specified entities unless the primary purpose of the entity is to provide behavior programming, as specified, but not including programs that are under the jurisdiction of county-operated facilities or certain state departments. By changing the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The California Community Care Facilities Act provides for the licensing and regulation of community care facilities, as defined, and makes a violation of the act a misdemeanor.~~

~~This bill would include in the definition of a community care facility a facility that serves delinquent or at-risk youth, other than those youths placed in a county-operated facility or a facility operated by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities. The bill would include in the definition of a residential facility a boot camp, ranch camp, or forestry camp, other than those camps operated by a county or the Department of Corrections and Rehabilitation, Division of Juvenile Facilities. By expanding the definition of a community care facility, this bill would expand the definition of an existing crime, thus creating a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *Youth “boot camps,” “ranch camps,” “forestry camps,”*
- 4 *or other nontraditional treatment programs are intended to be*
- 5 *less restrictive treatment options for children with significant*
- 6 *behavioral issues.*
- 7 (b) *Since the 1990s, hundreds of these programs have been*
- 8 *established nationwide, with thousands of allegations of abuse,*
- 9 *including death.*
- 10 (c) *These programs are administered by 501(c)(3) nonprofit*
- 11 *organizations.*

1 (d) *These programs advertise services for youth with behavioral*
2 *issues to families who may feel they have few other options.*

3 (e) *These boot camps are shown to utilize high-risk tactics on*
4 *children, such as extreme physical exertion.*

5 (f) *A particularly troubling instance of neglect and abuse of*
6 *power surfaced in 2011 at a youth boot camp in Pasadena,*
7 *California, including allegations of kidnapping, child abuse, child*
8 *endangerment, extortion, and unlawful use of a badge.*

9 (g) *The few boot camp-style programs for youth that operate*
10 *in California do so without licensure.*

11 (h) *Boot camps that fail to apply for a license put children at*
12 *risk.*

13 (i) *It is the role of the Legislature to ensure proper licensing*
14 *and regulation of social service providers for the protection and*
15 *care of all citizens.*

16 SEC. 2. *Section 1596.792 of the Health and Safety Code, as*
17 *amended by Section 4 of Chapter 519 of the Statutes of 2010, is*
18 *amended to read:*

19 1596.792. *This chapter, Chapter 3.5 (commencing with Section*
20 *1596.90), and Chapter 3.6 (commencing with Section 1597.30)*
21 *do not apply to any of the following, unless the primary purpose*
22 *of the entity is to provide behavior programming to address*
23 *conduct described in Section 601 of the Welfare and Institutions*
24 *Code, but not including programs that are under the jurisdiction*
25 *of the Department of Corrections and Rehabilitation, Division of*
26 *Juvenile Facilities or the State Department of Education, or*
27 *county-operated facilities:*

28 (a) *Any health facility, as defined by Section 1250.*

29 (b) *Any clinic, as defined by Section 1202.*

30 (c) *Any community care facility, as defined by Section 1502.*

31 (d) *Any family day care home providing care for the children*
32 *of only one family in addition to the operator's own children.*

33 (e) *Any cooperative arrangement between parents for the care*
34 *of their children when no payment is involved and the arrangement*
35 *meets all of the following conditions:*

36 (1) *In a cooperative arrangement, parents shall combine their*
37 *efforts so that each parent, or set of parents, rotates as the*
38 *responsible caregiver with respect to all the children in the*
39 *cooperative.*

1 (2) Any person caring for children shall be a parent, legal
2 guardian, stepparent, grandparent, aunt, uncle, or adult sibling of
3 at least one of the children in the cooperative.

4 (3) There can be no payment of money or receipt of in-kind
5 income in exchange for the provision of care. This does not prohibit
6 in-kind contributions of snacks, games, toys, blankets for napping,
7 pillows, and other materials parents deem appropriate for their
8 children. It is not the intent of this paragraph to prohibit payment
9 for outside activities, the amount of which may not exceed the
10 actual cost of the activity.

11 (4) No more than 12 children are receiving care in the same
12 place at the same time.

13 (f) Any arrangement for the receiving and care of children by
14 a relative.

15 (g) Any public recreation program. "Public recreation program"
16 means a program operated by the state, city, county, special district,
17 school district, community college district, chartered city, or
18 chartered city and county that meets either of the following criteria:

19 (1) The program is operated only during hours other than normal
20 school hours for kindergarten and grades 1 to 12, inclusive, in the
21 public school district where the program is located, or operated
22 only during periods when students in kindergarten and grades 1
23 to 12, inclusive, are normally not in session in the public school
24 district where the program is located, for either of the following
25 periods:

26 (A) For under 16 hours per week.

27 (B) For a total of 12 weeks or less during a 12-month period.
28 This total applies to any 12 weeks within any 12-month period,
29 without regard to whether the weeks are consecutive.

30 In determining "normal school hours" or periods when students
31 are "normally not in session," the State Department of Social
32 Services shall, when appropriate, consider the normal school hours
33 or periods when students are normally not in session for students
34 attending a year-round school.

35 (2) The program is provided to children who are over the age
36 of four years and nine months and not yet enrolled in school and
37 the program is operated during either of the following periods:

38 (A) For under 16 hours per week.

1 (B) For a total of 12 weeks or less during a 12-month period.
2 This total applies to any 12 weeks within any 12-month period,
3 without regard to whether the weeks are consecutive.

4 (3) The program is provided to children under the age of four
5 years and nine months with sessions that run 12 hours per week
6 or less and are 12 weeks or less in duration. A program subject to
7 this paragraph may permit children to be enrolled in consecutive
8 sessions throughout the year. However, the program shall not
9 permit children to be enrolled in a combination of sessions that
10 total more than 12 hours per week for each child.

11 (h) Extended day care programs operated by public or private
12 schools.

13 (i) Any school parenting program or adult education child care
14 program that satisfies both of the following:

15 (1) Is operated by a public school district or operated by an
16 individual or organization pursuant to a contract with a public
17 school district.

18 (2) Is not operated by an organization specified in Section
19 1596.793.

20 (j) Any child day care program that operates only one day per
21 week for no more than four hours on that one day.

22 (k) Any child day care program that offers temporary child care
23 services to parents and that satisfies both of the following:

24 (1) The services are only provided to parents and guardians who
25 are on the same premises as the site of the child day care program.

26 (2) The child day care program is not operated on the site of a
27 ski facility, shopping mall, department store, or any other similar
28 site identified by the department by regulation.

29 (l) Any program that provides activities for children of an
30 instructional nature in a classroom-like setting and satisfies both
31 of the following:

32 (1) Is operated only during periods of the year when students
33 in kindergarten and grades 1 to 12, inclusive, are normally not in
34 session in the public school district where the program is located
35 due to regularly scheduled vacations.

36 (2) Offers any number of sessions during the period specified
37 in paragraph (1) that when added together do not exceed a total of
38 30 days when only schoolage children are enrolled in the program
39 or 15 days when children younger than schoolage are enrolled in
40 the program.

(m) A program facility administered by the Department of Corrections and Rehabilitation that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) Any crisis nursery, as defined in subdivision (a) of Section 1516.

(o) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 3. Section 1596.792 of the Health and Safety Code, as amended by Section 5 of Chapter 519 of the Statutes of 2010, is amended to read:

1596.792. This chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30) do not apply to any of the following, *unless the primary purpose of the entity is to provide behavior programming to address conduct described in Section 601 of the Welfare and Institutions Code, but not including programs that are under the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities or the State Department of Education, or county-operated facilities:*

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any community care facility, as defined by Section 1502.

(d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children when no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible caregiver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(4) No more than 12 children are receiving care in the same place at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:

(1) The program is operated only during hours other than normal school hours for kindergarten and grades 1 to 12, inclusive, in the public school district where the program is located, or operated only during periods when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located, for either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

In determining "normal school hours" or periods when students are "normally not in session," the State Department of Social Services shall, when appropriate, consider the normal school hours or periods when students are normally not in session for students attending a year-round school.

(2) The program is provided to children who are over the age of four years and nine months and not yet enrolled in school and the program is operated during either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

(3) The program is provided to children under the age of four years and nine months with sessions that run 12 hours per week

1 or less and are 12 weeks or less in duration. A program subject to
2 this paragraph may permit children to be enrolled in consecutive
3 sessions throughout the year. However, the program shall not
4 permit children to be enrolled in a combination of sessions that
5 total more than 12 hours per week for each child.

6 (h) Extended day care programs operated by public or private
7 schools.

8 (i) Any school parenting program or adult education child care
9 program that satisfies both of the following:

10 (1) Is operated by a public school district or operated by an
11 individual or organization pursuant to a contract with a public
12 school district.

13 (2) Is not operated by an organization specified in Section
14 1596.793.

15 (j) Any child day care program that operates only one day per
16 week for no more than four hours on that one day.

17 (k) Any child day care program that offers temporary child care
18 services to parents and that satisfies both of the following:

19 (1) The services are only provided to parents and guardians who
20 are on the same premises as the site of the child day care program.

21 (2) The child day care program is not operated on the site of a
22 ski facility, shopping mall, department store, or any other similar
23 site identified by the department by regulation.

24 (l) Any program that provides activities for children of an
25 instructional nature in a classroom-like setting and satisfies both
26 of the following:

27 (1) Is operated only during periods of the year when students
28 in kindergarten and grades 1 to 12, inclusive, are normally not in
29 session in the public school district where the program is located
30 due to regularly scheduled vacations.

31 (2) Offers any number of sessions during the period specified
32 in paragraph (1) that when added together do not exceed a total of
33 30 days when only schoolage children are enrolled in the program
34 or 15 days when children younger than schoolage are enrolled in
35 the program.

36 (m) A program facility administered by the Department of
37 Corrections that (1) houses both women and their children, and
38 (2) is specifically designated for the purpose of providing substance
39 abuse treatment and maintaining and strengthening the family unit
40 pursuant to Chapter 4 (commencing with Section 3410) of Title 2

1 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with
2 Section 1174) of Title 7 of Part 2 of that code.

3 (n) This section shall become operative on January 1, 2014.

4 *SEC. 4. No reimbursement is required by this act pursuant to*
5 *Section 6 of Article XIII B of the California Constitution because*
6 *the only costs that may be incurred by a local agency or school*
7 *district will be incurred because this act creates a new crime or*
8 *infraction, eliminates a crime or infraction, or changes the penalty*
9 *for a crime or infraction, within the meaning of Section 17556 of*
10 *the Government Code, or changes the definition of a crime within*
11 *the meaning of Section 6 of Article XIII B of the California*
12 *Constitution.*

13 ~~SECTION 1. Section 1502 of the Health and Safety Code is~~
14 ~~amended to read:~~

15 ~~1502. As used in this chapter:~~

16 (a) ~~“Community care facility” means any facility, place, or~~
17 ~~building that is maintained and operated to provide nonmedical~~
18 ~~residential care, day treatment, adult day care, or foster family~~
19 ~~agency services for children, adults, or children and adults,~~
20 ~~including, but not limited to, the physically handicapped, mentally~~
21 ~~impaired, incompetent persons, delinquent or at-risk youth, other~~
22 ~~than those youths placed in a county-operated facility or a facility~~
23 ~~operated by the Department of Corrections and Rehabilitation,~~
24 ~~Division of Juvenile Facilities, and abused or neglected children,~~
25 ~~and includes the following:~~

26 (1) ~~“Residential facility” means any family home, group care~~
27 ~~facility, boot camp, ranch camp, forestry camp, or similar facility~~
28 ~~determined by the director, other than those camps or facilities~~
29 ~~operated by a county or the Department of Corrections and~~
30 ~~Rehabilitation, Division of Juvenile Facilities, for 24-hour~~
31 ~~nonmedical care of persons in need of personal services,~~
32 ~~supervision, or assistance essential for sustaining the activities of~~
33 ~~daily living or for the protection of the individual.~~

34 (2) ~~“Adult day program” means any community-based facility~~
35 ~~or program that provides care to persons 18 years of age or older~~
36 ~~in need of personal services, supervision, or assistance essential~~
37 ~~for sustaining the activities of daily living or for the protection of~~
38 ~~these individuals on less than a 24-hour basis.~~

39 (3) ~~“Therapeutic day services facility” means any facility that~~
40 ~~provides nonmedical care, counseling, educational or vocational~~

1 support, or social rehabilitation services on less than a 24-hour
2 basis to persons under 18 years of age who would otherwise be
3 placed in foster care or who are returning to families from foster
4 care. Program standards for these facilities shall be developed by
5 the department, pursuant to Section 1530, in consultation with
6 therapeutic day services and foster care providers.

7 (4) “Foster family agency” means any organization engaged in
8 the recruiting, certifying, and training of, and providing
9 professional support to, foster parents, or in finding homes or other
10 places for placement of children for temporary or permanent care
11 who require that level of care as an alternative to a group home.
12 Private foster family agencies shall be organized and operated on
13 a nonprofit basis.

14 (5) “Foster family home” means any residential facility
15 providing 24-hour care for six or fewer foster children that is
16 owned, leased, or rented and is the residence of the foster parent
17 or parents, including their family, in whose care the foster children
18 have been placed. The placement may be by a public or private
19 child placement agency or by a court order, or by voluntary
20 placement by a parent, parents, or guardian. It also means a foster
21 family home described in Section 1505.2.

22 (6) “Small family home” means any residential facility, in the
23 licensee’s family residence, that provides 24-hour care for six or
24 fewer foster children who have mental disorders or developmental
25 or physical disabilities and who require special care and supervision
26 as a result of their disabilities. A small family home may accept
27 children with special health care needs, pursuant to subdivision
28 (a) of Section 17710 of the Welfare and Institutions Code. In
29 addition to placing children with special health care needs, the
30 department may approve placement of children without special
31 health care needs, up to the licensed capacity.

32 (7) “Social rehabilitation facility” means any residential facility
33 that provides social rehabilitation services for no longer than 18
34 months in a group setting to adults recovering from mental illness
35 who temporarily need assistance, guidance, or counseling. Program
36 components shall be subject to program standards pursuant to
37 Article 1 (commencing with Section 5670) of Chapter 2.5 of Part
38 2 of Division 5 of the Welfare and Institutions Code.

39 (8) “Community treatment facility” means any residential
40 facility that provides mental health treatment services to children

1 in a group setting and that has the capacity to provide secure
2 containment. Program components shall be subject to program
3 standards developed and enforced by the State Department of
4 Mental Health pursuant to Section 4094 of the Welfare and
5 Institutions Code.

6 Nothing in this section shall be construed to prohibit or
7 discourage placement of persons who have mental or physical
8 disabilities into any category of community care facility that meets
9 the needs of the individual placed, if the placement is consistent
10 with the licensing regulations of the department.

11 (9) “Full-service adoption agency” means any licensed entity
12 engaged in the business of providing adoption services, that does
13 all of the following:

14 (A) Assumes care, custody, and control of a child through
15 relinquishment of the child to the agency or involuntary termination
16 of parental rights to the child.

17 (B) Assesses the birth parents, prospective adoptive parents, or
18 child.

19 (C) Places children for adoption.

20 (D) Supervises adoptive placements.

21 Private full-service adoption agencies shall be organized and
22 operated on a nonprofit basis. As a condition of licensure to provide
23 intercountry adoption services, a full-service adoption agency shall
24 be accredited and in good standing according to Part 96 of Title
25 22 of the Code of Federal Regulations, or supervised by an
26 accredited primary provider, or acting as an exempted provider,
27 in compliance with Subpart F (commencing with Section 96.29)
28 of Part 96 of Title 22 of the Code of Federal Regulations.

29 (10) “Noncustodial adoption agency” means any licensed entity
30 engaged in the business of providing adoption services, that does
31 all of the following:

32 (A) Assesses the prospective adoptive parents.

33 (B) Cooperatively matches children freed for adoption, who are
34 under the care, custody, and control of a licensed adoption agency,
35 for adoption, with assessed and approved adoptive applicants.

36 (C) Cooperatively supervises adoptive placements with a
37 full-service adoptive agency, but does not disrupt a placement or
38 remove a child from a placement.

39 Private noncustodial adoption agencies shall be organized and
40 operated on a nonprofit basis. As a condition of licensure to provide

1 intercountry adoption services, a noncustodial adoption agency
2 shall be accredited and in good standing according to Part 96 of
3 Title 22 of the Code of Federal Regulations, or supervised by an
4 accredited primary provider, or acting as an exempted provider,
5 in compliance with Subpart F (commencing with Section 96.29)
6 of Part 96 of Title 22 of the Code of Federal Regulations.

7 (11) “Transitional shelter care facility” means any group care
8 facility that provides for 24-hour nonmedical care of persons in
9 need of personal services, supervision, or assistance essential for
10 sustaining the activities of daily living or for the protection of the
11 individual. Program components shall be subject to program
12 standards developed by the State Department of Social Services
13 pursuant to Section 1502.3.

14 (12) “Transitional housing placement facility” means a
15 community care facility licensed by the department pursuant to
16 Section 1559.110 to provide transitional housing opportunities to
17 persons at least 16 years of age, and not more than 18 years of age
18 unless the requirements of Section 11403 and paragraph (1) of
19 subdivision (a) of Section 11403.2 of the Welfare and Institutions
20 Code are met, who are in out-of-home placement under the
21 supervision of the county department of social services or the
22 county probation department, and who are participating in an
23 independent living program.

24 (b) “Department” or “state department” means the State
25 Department of Social Services.

26 (c) “Director” means the Director of Social Services.

27 SEC. 2. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.